ELECTORAL BONDS: A CRITICAL STUDY

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ABSTRACT

The System of Electoral Financing in our country were not Transparent from the Beginning. There was always some flaws in Electoral financing that Supported Corruption in Back Stage of the Election Campaigns. Therefore, in order to Eliminate the Corruption and inflow of Black Money BJP Government introduced Electoral Bonds. The Electoral Bonds refers to instrument that Aid Political Parties to Generate Funds. This Reform have Superseded the old way of Donation made through cash. Government has clarified that Electoral Bonds will eliminate the flow of Black Money in Election but the Opposition Political Parties are not happy with the new reform. Few Experts have indicated that Electoral Bonds will not be bringing any Transparency in Political Funding but it will make things more complicated because the identity of the donor are kept Anonymous. Two Non- Government Organisation- Common Cause and Association of Democratic Reform (ADR) have filed a plea in Supreme Court of India and asked the court to put stay on Electoral Bonds. This Article will be examine every positive and negative aspect of Electoral Bonds.

INTRODUCTION

The idea of Electoral Bonds were put forward in union budget 2017 by BJP Led NDA Government. Electoral Bonds were inaugurated through the Finance Bill 2017 and few modification was made in the Reserve Bank of India Act 1934, Income Tax Act 1961, Representation of the People Act 1951, and Companies Act.[1] Before the existence of Electoral Bond, If any Donor wants to Donate the Fund to any Political Party and if the Amount of the Donation is less than Twenty Thousand Rupees then donor can Donate Fund in Cash and it was not Obligatory for the donor to disclose his Identity. But if the Amount was more than Twenty Thousand then it was Mandatory to reveal the Identity of the donor. Most of the Political Parties Admitted that near about Ninety percent of Donation were Donated in less than Twenty Thousand Rupees in Cash, due to which Massive Amount of Black Money were Circulating in Election Campaigns. Therefore, Government brought solution for this Problem by Introducing Electoral Bond after which the rules for Donating fund were Completely Altered. Under this Reform Donor can donate the Funds by Issuing the Electoral Bond digitally or by cheque from the specific Branches of State Bank of India. Bonds are only available in One Thousand, Ten Thousand, One Lakh, Ten Lakhs, and One Crore. Any Person or Private Companies Can Purchase Electoral Bonds but there are few Requirement which Companies must meet. Companies which are at least Three years old or more can Donate the Funds to desired Political Parties. After Receiving the Bonds from the Donor particular Party Can Convert the Bonds into Cash Within fifteenth days and the identity of the Donor will be kept Confidential. Therefore, Every Donors are Unknown and no one knows which Donor has donated what Amount of Fund. There are also Few Requirement for the Political Parties these Requirement are only those Parties Can get the Donation via Electoral Bond which are registered under Section 29A of Representation of People Act, 1951 and have acquired at least 1% vote in the Recent Election.

CONTROVERSIES ON ELECTORAL BONDS

A Counter- Affidavit of Election Commission of India Pointed Out that there must be Transparency in Political Funding.[2] Many Experts have indicated that Electoral Bonds are not at all good for Fair and Healthy Elections. According to facts Produced by Association for

[1] Electoral Bond Scheme 2018, Press Information Bureau, Ministry of Finance, Government of India
[2] https://scroll.in/latest/918068/electoral-bonds-will-have-repercussions-on-transparency-of-political-funding-ec-tells-supreme-court

Democratic Reforms (ADR) Indicates that Bharatiya Janata Party is only party that has gained the massive amount of donation from the Electoral Bonds. Hence, it is very clear that Electoral Bonds are only in favour of Ruling party. Experts have also said that Electoral Bonds seems to be maintaining Anonymity of the donors but in actual scenario donors are not at all anonymous. As the donors can only issue the Bonds from certain branches of State Bank of India therefore Ruling Political Party has the full Authority to pull out every information about the Donors. According to Activits Electoral Bond has demolished the Existence of Right to Information Act, 2005. Government introduced Electoral Bonds to Reduce the flow of Black Money in Political Funding but few political parties expressed their concern that electoral bond could lead to unfair election[3]. Before the Existence of Electoral Bond the Foreign Companies were Restricted from donating the funds to political parties but now any foreign Companies can donate funds to any political parties including shell Companies.

ARGUMENTS IN FAVOUR OF ELECTORAL BONDS

The Electoral Bonds also has few arguments in favour that support this new Reform. The process of donating funds to political parties have become more effortless after the introduction of electoral bonds any person who wants to help their favourite political parties by providing them financial support can do it easily by purchasing electoral bonds and the anonymity of the donor will be maintained. There are also some rules fixed for electoral bond that is political parties can turned the bonds into cash within 15 days. If the parties does not converts the electoral bonds into cash then the amount of the donation will automatically be transferred in the Prime Minister Care Fund. Which can later be used for welfare of the society. This reform have altered the whole political funding system. Before the introduction of electoral bonds large amount of black money was revolving as donation because more donation were made in cash but now the new reform have brought uprightness by allowing only Genuine Bank Account Holder to purchase the bonds for donation.[4] There was many drawback in the old political funding process that would lead to corruption but now the new reform have brought much transparency in the political funding.

DECISION OF SUPREME COURT ON ELECTORAL BONDS

[3] https://www.business-standard.com/podcast/current-affairs/electoral-bonds-will-curb-or-lead-to-more-black-money-the-story-so-far-119041200418_1.html
[4] https://www.nirmalbang.com/knowledge-center/electoral-bonds.html

The Election Commission of India have wrote application to the Supreme Court and expressed worries on Electoral Bonds and told Supreme Court that there is no Transparency in Electoral Bonds Scheme. Later, Government have clarified that Electoral Bonds were introduced to bring Transparency in political funding. Supreme Court on April, 12th 2019 directed all Political Parties to reveal how much funds have been generated from the Electoral Bonds. On December, 2019 Association for Democratic Reform (ADR) have filed a Public Interest Litigation in Supreme Court of India to stay on the sale of Electoral Bonds in Delhi Assembly Election. On January 20th 2020 Supreme Court declined to grant the stay on the sale of Electoral Bonds.[5]

HOW POLITICAL PARTIES IN GERMANY GENERATE FUNDS

Government of Every Countries uses different methods to fund Political parties. Generally Political parties in foreign countries generates fund from the citizens and corporates. Countries have adopted various techniques for bringing Transparency in Political funding. But Germany have Implemented the fair and transparent way of funding Political parties. The Political parties in Germany receives funds from the different sources such as Membership fees, fees paid by MP's, donation and state funding. The public support in Political funding can be measured in votes, Membership fees and donation. Political parties generates 87 cent from the states after securing each votes which means more votes will result in more funds. This system leads to transparency and provide every political parties gets equal opportunity. Due to this weaker Political parties also can generate funds. The parties may have fewer supporter but still they can generate funds from the state. There are few guidelines that political parties have to fulfil while receiving donation these are donors who are donating more than 10000 € then the information about the donor have to be disclosed publically in the annual report and if the amount of the donation is more than 50000 € then data has to be shared immediately without any delay.

CONCLUSION

Electoral Bonds were brought by Indian Government to take down the Corruption and Black Money revolving in Election but still there no positive result. The main reason that made Electoral Bonds a subject to worry is the Anonymity of the donor. This Electoral Reform keeps the Identity of the donor anonymous which are not good for fair Election. The basic Information

[5] https://www.barandbench.com/news/litigation/no-immediate-stay-on-electoral-bonds-scheme-for-now-supreme-court

of the donor must be shared with the general public in order to maintain in Political Funding. For bringing transparency in Electoral Financing Government have to Implement Changes on Electoral Bonds by setting limit on the purchase of Electoral Bonds by Corporates. Multi-National Companies donates large amount of funds to Political Parties so that Corporates can take advantage of many benefits offered by the Government. In order to bring Transparency in Political Funding Government should split the donation process into two tiers that is tier first and tier second. In first tier any individual or corporates can issue Electoral bonds for donation within amount limit of one lack rupees and later State Bank of India have to make sure that identity of the donor must be disclosed within one month. Under tier second only corporates can donate the funds within amount limit of ten lacks and identity of the donor and the donation receiving parties must be submitted immediately to the Election Commission of India. By adopting this process Government can bring Transparency in Electoral financing which will result in healthy and fair Election.